

cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States. An employee may also accept gifts of travel or expenses for travel entirely outside the United States provided the employee obtains prior approval from the Head of the employing Agency or his or her designee;

(4) The acceptance of a tangible gift of more than \$140 is deemed to have been accepted on behalf of the United States and becomes the property of the United States. It must be deposited by the employee within 60 calendar days with his or her employing Agency's Property Management Officer with a statement indicating:

- (i) Name and position of the employee;
- (ii) Brief description of the gift and the circumstances justifying acceptance;
- (iii) Identity, if known, of the foreign government and name and position of the individual who presented the gift;
- (iv) Date of acceptance of gift;
- (v) Estimated value in the United States of the gift at time of acceptance; and
- (vi) Disposition and current location of the gift.

If the gift is for travel or travel expenses, the employee must file a statement with his or her employing Agency Head within 30 calendar days after acceptance indicating: Name and position of the employee, brief description of the gift and the circumstances justifying acceptance, and identity, if known, of the foreign government and name and position of the individual who presented the gift;

(5) An employee may accept, retain, and wear a foreign decoration, if tendered in recognition of active field service or unusually meritorious service and if supported by a statement from the donor, preferably in the form of a citation, which shows the basis for tender of the award. A request from the Head of the employing Agency for approval of the acceptance of the decoration will be forwarded to the Administrator of the Foreign Agricultural Service or his or her designee for concurrence or disapproval. The request from the employing Agency must contain a recommendation as to whether

or not the acceptance, retention, and wearing of the foreign decoration by the employee would be in the best interest of the United States. The Administrator of the Foreign Agricultural Service shall notify the employing Agency of his or her concurrence or disapproval of the retention of the foreign decoration. Disapprovals by the Foreign Agricultural Service shall constitute acceptance on behalf of the United States and the decoration shall be deposited by the employee with the Agency's Property Management Officer within 60 calendar days. The Property Management Officer shall report the decoration as required by the Agriculture Property Management Regulations;

(6) Violation of the provisions of the law including the failure by an employee to report such a gift may result in a civil penalty against the employee for the value of the gift plus \$5,000; and

(7) The definition of *employee* includes all employees of the Department, experts, or consultants under contract with the United States, spouses of all such individuals, and blood and in-law relations who are residents of the employee's household.

(f) Neither this section nor §0.735-13(a) precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel, and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his or her behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits; nor does it allow an employee to be reimbursed for travel on official business under Agency orders when reimbursement is proscribed by decision B-128527 of the Comptroller General dated March 7, 1967 (46 Comp. Gen. 689).

[43 FR 43431, Sept. 26, 1978, as amended at 47 FR 12327, Mar. 23, 1982]

§0.735-13 Outside employment and activities.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and

responsibilities of his or her Government employment whether on his or her behalf, or for private individuals, firms, companies, institutions, professional societies, or State or local governments. Incompatible activities include but are not limited to:

(1) Outside employment or activity (including the acceptance of a fee, compensation, gift, payment of expenses or any other thing of monetary value) which may result in, or create the appearance of a conflict-of-interest;

(2) Outside employment or activity which tends to impair the employee's mental or physical capacity to perform his or her Government duties and responsibilities in an acceptable manner;

(3) Outside employment or activity that takes the employee's time and attention during his or her official work hours;

(4) Outside employment or activity which may be construed by the public to be official acts of the Department, or of a nature closely paralleling the work of the Department;

(5) Outside employment or activity which involves participation in a commercially sponsored broadcast, or which relates to a written discussion of policies or official work of the Department, unless authorized in advance by the Office of Governmental and Public Affairs;

(6) Outside employment or activity which involves permission, or the appearance of permission to use an employee's name in the advertising of organizations commercializing the results of research conducted by the Department, regardless of any merits which such enterprises may appear to possess;

(7) Outside employment or activity which may involve the use of information secured as the result of employment in the Department and to the detriment of the public service;

(8) Any outside employment or activity which may tend to bring criticism of, or cause embarrassment to, the Department;

(9) Outside employment or activity which would involve the use by the employee of official facilities, e.g., office space, office machines, supplies, telephones, or the services of other employees; and

(10) Outside employment or activity which would involve the violation of a Federal or State statute, a local ordinance, Executive order, or regulation to which the employee is subject.

(b) Outside employment or activity (including self-employment) is permitted to the extent that it does not conflict with other requirements of this part, or tend to create a conflict-of-interest, or appearance of conflict-of-interest, between the private interests of an employee and the employee's official responsibilities. The employee's outside employment or activity shall not reflect discredit on the Government or the Department.

(c) Except as provided in paragraphs (c)(1) through (4) of this section, employees shall obtain advance approval for outside employment or activity whether paid or unpaid. Each Agency shall establish the approval level and shall advise each employee. A record of each approval shall be filed in the employee's official personnel folder. The term outside employment or activity as used in this paragraph does not include:

(1) Memberships in, or volunteer work with, charitable, religious, social, fraternal, recreational, public service, civic, or similar nonbusiness and non-profit organizations;

(2) Memberships in professional organizations;

(3) Performance of duties in the Armed Forces, Reserve, or National Guard; or

(4) Acting as an officer of a labor organization pursuant to section 18 of Executive Order 11491, as amended.

(d) In considering requests for approval of outside employment, the following criteria should be applied:

(1) The provisions of applicable laws;

(2) The policies incorporated in this part including the possibility of conflict-of-interest or appearance of conflict-of-interest;

(3) The general attendance record of the employee;

(4) The nature of the employee's official duties in relation to the nature of the duties which will comprise the outside employment or activity; and

(5) The amount of time and hours of work required by the outside employment or activity.

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(e) Employees are specifically prohibited from acting as the agent of a foreign principal registered under the Foreign Agent's Registration Act (18 U.S.C. 219).

(f) No employee, whether in a duty or nonduty status, shall accept outside employment or activity, with or without compensation, from any foreign government, corporation, partnership, or individual without written prior approval from a counselor designated under §0.735-3.

(g) It is the policy of the Department to grant permission to an employee to teach, lecture, or write including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or Board of Examiners for the Foreign Service, provided:

(1) Prior written authorization is obtained from the agency head, or a counselor designated under §0.735-3;

(2) Such teaching, lecturing, or writing is not performed at or for any educational institution or other organization that discriminates because of race, creed, color, sex, age, national origin, or physical or mental handicap in the admission or subsequent treatment of students;

(3) Such teaching, lecturing, or writing is not dependent on information obtained as a result of his or her employment or activity with the Department, except when that information has been made available to the general public or when the agency head or agency head's designee gives specific authorization for the use of nonpublic information in the public interest; and

(4) Such teaching, lecturing, or writing is not otherwise incompatible with the provisions of this part.

(h) Articles prepared officially are the property of the Government, and authors thereof may not accept payment for such articles published in outside journals, magazines, or newspapers.

(i) Employees may not accept honorariums for written articles, speaking engagements, or addresses on radio or television or other appearances performed as part of their official duties. This restriction on the acceptance of honorariums applies even if the Gov-

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ernment official endorses the check to a charitable organization or asks that the check be sent to a charitable organization.

(j) No employees, except special Government employees, shall accept compensation for services as consultants or advisors to any organization, public or private, in any manner which draws upon the experience, competence, or professional standing acquired or enhanced by or through their position in this Department unless they have received permission from their agency head. Special Government employees shall not use their employment or activity with the Department for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for themselves or another (41 FR 24108, June 15, 1976).

§0.735-14 Conflict of interest.

(a) The following prohibitions apply to both a regular employee and a special Government employee:

(1) He or she may not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his or her responsibilities and duties as a Federal employee;

(2) He or she may not engage, directly or indirectly, in a financial transaction relying upon information obtained through his or her employment for his or her personal benefit or disclose such information for the benefit of another;

(3) He or she may not participate directly or indirectly in any transaction concerning the purchase or sale of corporate stocks or bonds, commodities, or other property for speculative purposes if such action might tend to interfere with the proper and impartial performance of his or her duties or bring discredit upon the Department;

(4) If he or she is concerned in any way with the administration of programs for the purchase or sale of commodities, price support programs, commodity loan programs, or other programs which directly affect market prices of agricultural commodities, he or she may not directly or indirectly speculate in any agricultural commodity;